IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4591 OF 2006

Life Insurance Corporation of India ....Petitioner.
V/s
The Thane Janata Sahakari Bank Ltd. & Ors.. ....Respondents.

Ms.Manisha Pant i/by M/s.Bhave & Co. Advoctes for the petitioner.

Mr.Bhupesh V. Samant & Mr.Deepak S. Korgaonkar, Advocates for respondent Nos. 1 & 7.

CORAM: A.P.DESHPANDE, J.

2/7/07

PC:

The present petition is directed against an order passed below Exh.46 in Special Darkhast No.30/2001 whereby the application at Exh.46 has been rejected.

2. The present petitioner is the decree holder who filed an application for stay of distribution of sale proceeds received in public auction of sale of property. A further prayer was made before the Executing Court to call for the sale proceeds from the Special Recovery Officer of the Bank. Respondent No.1 is a cooperative bank whereas respondent Nos.2, 3 and 4 are the borrowers. The said respondents have taken housing loan from the present petitioner and have also availed of the loan from respondent No.1-bank. The respondent No.6 has

purchased the property in public auction on 15.10.2005. Respondent NO.7 is also a cooperative bank who has money claim against respondent Nos.2, 3 and 4. The petitioner had filed a suit and claimed money decree and money decree has been passed against respondent Nos. 2, 3 and 4. There is no decree for sale of the mortgaged property. Special Recovery Officer attached the property and sold the same in exercise of powers under the Maharashtra Cooperative Societies Act, 1960 and the rules made thereunder (the "Act"). The auction was conducted under rule 107. Simultaneously proceedings were going on before the Civil Court at the behest of the present petitioner for execution of the decree, whereas for recovery of the amount of the respondent No.1-bank, proceedings were being conducted by Special Recovery Officer under the provisions of local act. In this fact situation application was moved before the Executing Court for issuing direction to the Special Recovery Officer to deposit money in the Civil Court. The Executing Court has found that against the orders passed by the Special Recovery Officer other Forums are constituted to adjudicate the grievance and thus the Civil Court has no authority, power and/or jurisdiction to call the sale proceeds from the Special Recovery Officer to the Civil Court. Accepting the submission made by the learned counsel for respondent No.1 that in view of section 163(3) of the Act Civil Court has no jurisdiction to interfere with the proceedings of the Special Recovery Officer, the

Executing Court rejected the application. It may be worthwhile to quote section 163(3) of the Act which reads as under:

> "**163(3)** All orders, decisions or awards passed in accordance with this Act or the rules shall, subject to the provisions for appeal or revision in this Act be final; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits or upon any other ground whatsoever."

3. Perused the order. Same does not call for any interference and hence writ petition deserves to be dismissed. In the result writ petition is summarily dismissed.